



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2013-0018]

RIN 1625-AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing and modifying anchorage grounds within the Port of New York. This action is necessary to facilitate safe navigation and provide safe and secure anchorages for vessels operating in the area. This rule is intended to increase the safety of life and property of both the anchored vessels and those operating in the area, as well as provide for the overall safe and efficient flow of commerce.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0018]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on

the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Jeff Yunker, Sector New York, Waterways Management Division, U.S. Coast Guard; telephone 718-354-4195, E-Mail Jeff.M.Yunker@uscg.mil or Chief Craig Lapiejko, Coast Guard First District Waterways Management Branch, telephone 617-223-8385, E-Mail Craig.D.Lapiejko@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
WAMS	Waterways Analysis and Management System

A. Regulatory History and Information

On July 25, 2013, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Regulations; Port of New York in the Federal Register (78 FR 44917). We received no

comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds.

This rule was assessed as part of a Waterways Analysis and Management System (WAMS) review of the New York Vessel Traffic Lanes and Approaches to New York Harbor with the intent of optimizing the waterway and aids to navigation. The Coast Guard received six responses to the survey included in the WAMS review. The survey responses reported that Anchorage Ground No. 27(ii) Romer Shoal and Anchorage Ground No. 27(iii) Flynn's Knoll, near Sandy Hook, NJ are not used because their locations leave vessels exposed to swells and that there are safer anchorage grounds available in Lower New York and Sandy Hook Bays.

The New York District Army Corps of Engineers (USACE) was consulted on this regulation and had no objections.

In addition, the Hudson River Pilots Association requested the Coast Guard establish a federal anchorage ground near Yonkers, NY on the Hudson River.

The purpose of this rule is to accommodate ship traffic awaiting berthing space, favorable weather, daylight hours, tidal

conditions for transits, and/or other unforeseen conditions to improve navigation safety; clarify positions of current areas being used for vessels anchoring; and reduce regulatory burden by disestablishing anchorage grounds that are no longer used and therefore deemed unnecessary.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect minimal additional cost impacts to the industry because this rule is not imposing fees, permits, or specialized requirements for the maritime industry to utilize these anchorage

grounds. The effect of this rule will not be significant as it removes two obsolete anchorage grounds that are no longer used and codifies one anchorage ground that is currently used by commercial vessels as a general anchorage area. This will represent an improvement to the safety of vessels using the anchorage grounds, facilitate the transit of deep draft vessels through the adjoining waterways, and increase mariner awareness that they can expect to find anchored vessels in the vicinity.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels that have a need to anchor or transit through the lower Hudson River near Yonkers, NY; and Lower New York Bay near Romer Shoal and

Flynns Knoll near Sandy Hook, NJ.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule only codifies current navigation practices already in use by commercial vessels in these areas. The anchorage grounds will not affect vessels' schedules or their abilities to freely transit near these areas within the Captain of the Port zone. The anchorage grounds will not impose any monetary expenses on small entities because it does not require them to purchase any new equipment, hire additional crew, or make any other expenditures.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule does affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these

actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves disestablishing two unused anchorage grounds,

establishing one anchorage ground, and reducing the size of one anchorage ground resulting in a reduction in the overall size of the anchorage grounds by 7.28 square nautical miles in the COTP zone. This rule is categorically excluded from further review under paragraph 34(f) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In § 110.155 revise paragraphs (c)(2) and (f) and add paragraph (c)(4) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(2) Anchorage No. 17. All waters of the Hudson River bound

by the following points: 40°56'26.66"N, 073°55'12.06"W;
thence to 40°56'22.54"N, 073°54'49.77"W; thence to 40°55'56.00"N,
073°54'58.00"W; thence to 40°55'54.15"N, 073°54'46.96"W; thence
to 40°54'18.43"N, 073°55'21.12"W; thence to 40°52'27.59"N,
073°56'14.32"W; thence to 40°51'34.20"N, 073°56'52.64"W; thence
to 40°51'20.76"N, 073°57'31.75"W; thence along the shoreline to
the point of origin (NAD 83).

(i) When the use of Anchorage No. 17 is required by
naval vessels, the vessels anchored therein shall move when
the Captain of the Port directs them.

(ii) [Reserved]

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(4) Anchorage No. 18. All waters of the Hudson River bound
by the following points: 40°56'54.0"N, 073°54'40.0"W; thence to
40°56'51.0"N, 073°54'24.0"W; thence to 40°55'53.0"N,
073°54'40.0"W; thence to 40°55'56.0"N, 073°54'58.0"W; thence to
the point of origin (NAD 83).

(i) This anchorage ground is reserved for use by ships
only.

(ii) [Reserved]

* * * * *

(f) * * *

(2) Anchorage No. 27. Atlantic Ocean -

(i) All waters bound by the following points:

40°28'49.27"N, 074°00'12.13"W; thence to 40°28'52.12"N,
074°00'00.56"W; thence to 40°28'40.88"N, 073°58'51.95"W; thence
to 40°25'57.91"N, 073°54'55.56"W; thence to 40°23'45.55"N,
073°54'54.89"W; thence to 40°23'45.38"N, 073°58'32.10"W; thence
along the shoreline to the point of origin (NAD 83).

(ii) [Reserved]

(iii) [Reserved]

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Dated: December 30, 2014.

V. B. Gifford,
Captain, U.S. Coast Guard,
Acting Commander, First Coast Guard District.

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